

IN THE HIGH COURT OF PUNJAB & HARYANA, CHANDIGARH

CR No. 7873 of 2013

Date of decision : February 29, 2016

Dr. Puran Chand

..... Petitioner

Versus

Dr. Satish Kumar Jain

..... Respondent

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL

Present:- Mr. Anurag Jain, Advocate
for the petitioner.

Mr. Rose Gupta, Advocate
for the respondent along with
Dr. Satish Kumar Jain, respondent in person.

1. Whether reporters of local papers may be allowed to see the judgment ?
2. To be referred to the reporters or not?
3. Whether the judgment should be reported in the digest?

Amit Rawal, J (oral).

The petitioner-objector is aggrieved of the impugned order dated 20.11.2013 whereby the objections viz-a-viz execution of the award dated 13.12.1995 which has been passed in favour of the decree holder has been dismissed.

Learned counsel appearing on behalf of the petitioner submits that the award, aforementioned, was made rule of the court and the decree sheet did not contain element of interest and the objection, in this regard, was filed which was also dismissed, therefore, the order under challenge is beyond the provisions of

Section 29 of the Arbitration and Conciliation Act, 1940 and the court has no power to award interest post arbitration proceedings, much less decree holder cannot seek interest in the absence of any element of interest in decree. In support of his contentions, he has relied upon the judgment of Hon'ble Supreme Court in **Thawardas Pherumal and another Vs. Union of India AIR 1963 Calcutta 583** and of Calcutta High Court in **Brahma Swaroop Gupta, Vs. Diwan Chand Minotra AIR 582 Calcutta**.

Learned counsel for the respondent submits that the order is totally in conformity with the aforementioned provisions and the executing court has not gone behind the award. The objections are only to thwart the execution of the decree as perpetual attempts have been made to delay the execution of the award.

I have heard learned counsel for the parties and appraised the paper book and of the view that there is no merit in the revision petition, for, the operative part of the award reads thus:-

“The award amount of Rs. 2,61,582.25 (Rs. Two lacs sixty one thousand five hundred eighty two and paise twenty five only) shall be paid by the respondent Dr. Puran Chand within 90 days of receiving the award, otherwise the interest at the rate of 15% per annum from the date of award will be paid by the respondent Dr. Puran Chand. The cost of non-judicial stamp papers shall be borne by the petitioner Dr. Satish Kumar Jain.”

Liberty was granted to make the payment within 90 days, failing which it would entail interest @ 15% per annum from the date of award. The aforementioned award was made rule of court and

decree sheet was prepared in terms of the award.

In case the petitioner fails to deposit the amount the element of interest @ 15% shall continue. The decree holder has not demanded more interest than the one ordered by the arbitrator, which can be said to be in violation of the provisions of Section 29 of the Arbitration and Conciliation Act, 1940. Though the ratio decidendi culled out in the aforementioned judgments pertain to jurisdiction of the trial court in awarding interest, however, the present case is not a case of such nature. For the sake of brevity decree sheet reads thus:-

“This petition is coming on this day for final disposal before me (Ms.Alka Mali, HCS, Addl.Civil Judge (Sr.Divn.,Hisar) in the presence of Sh. S. K. Gupta, Advocate for the petitioner and of Sh. Anuj Gupta, Advocate for the respondent.

It is ordered that this award dated 13.12.2005, filed by respondent arbitrator is to be accepted and is liable to be made rule of the court, application under section 14 of Arbitration Act, move by Dr.Satish Kumar, petitioner is hereby allowed, whereas objection petition filed by respondent Dr. Puran Chand stands dismissed. The award is made rule of the court, and decree is hereby passed in favour of Dr. Satish Kumar, against respondent Puran Chand.”

Keeping in view the aforementioned facts, I do not find any illegality and perversity in the impugned order and the same cannot be said to have been passed without jurisdiction.

The revision petition is devoid of merits.

Accordingly the same is dismissed.

(AMIT RAWAL)
JUDGE

February 29 , 2016
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